

One-on-one contracting

A one-on-one contract is the award of a contract to a supplier that does not have to compete with other suppliers for the contract. You can enter into such a contract if you know exactly what innovative product or service you wish to purchase and you know for certain that only one party can provide this. For one-on-one contracts you use a single private tendering process. There are various ways to do this. Which way you choose depends on the cost of the purchase.

1. When is a one-on-one contract appropriate?

Suppose that you need a product or service for your requirement for innovation within your organisation. Since you know for sure that there is only one supplier able to supply what you need, you can award this contract directly to this supplier. Is it a small contract? If so, there may be other reasons for opting for a one-on-one contract, such as if you already know which supplier is the best, because there has been an intensive preliminary phase.

2. Step-by-step plan

There are four steps involved in a one-on-one contract. Firstly, you make sure that there is actually only one supplier. Then you decide the process, which will depend on the cost of the contract. In the next step you negotiate with the supplier and in the final step you purchase the product or service.

Step 1: Make sure that there is only one supplier

If you enter into a one-on-one contract, you commit yourself to one party without any further competition. Do you know for sure that this is what you want, or that this party is the only possible supplier? Or are there alternatives? To investigate this, an extensive market analysis seems an obvious choice. A market consultation can also help to determine whether any alternatives are available. In the case of a big contract it is especially important to know for sure that there is only one supplier. In the event of doubt, you cannot opt for a one-on-one contract.

Step 2: Choose the process that fits the tender

The kind of single private tender that you need to use depends on the size of the contract. For each process you only need to seek an offer from one party. The larger the sum involved, the more detailed your justification needs to be before you can award a one-on-one contract. There are three options:

A) Single private tender 'under the financial limit'

If the contract price is under the financial limit, then you do not need to give reasons, or only very brief reasons, as to why you are issuing a request to just one party. You can therefore also use this method if there are other reasons for wanting to contract with one party, even though there are other suppliers available. You can find information about the financial limits of the Dutch government [here](#). Other government bodies may apply other amounts.

B) Single private contract above the financial limit but less than the European threshold

Does the value of the contract exceed the financial limit, but lie under the European threshold? If so, you need to show on the basis of a market analysis and perhaps also a market consultation that there is only one possible supplier. This could well be the case particularly when it concerns an

innovative product. The amount of the European threshold depends on the type of contract and the government body. The European thresholds can be found [here](#).

C) Single private contract above the European threshold

Even if the value of the contract lies above the European tendering threshold, you can still award a one-on-one contract under Article 2.32b in the Aanbestedingswet (Dutch procurement law). This article states that you may commence a negotiating process without contract notice if, for artistic or technical reasons, there is only one supplier in the market able to supply what you need. You need to be able to justify this thoroughly. The support of management, legal advisers and purchasers within your organisation may be significant if you select this type of tender. More information about the tendering of unique products, services and works is available from PIANOo [here](#).

Step 3: Negotiate with the market party

Despite the fact that you are entering into a one-on-one contract and that you have already decided on the supplier, you can still negotiate on the price. In the case of a new innovative product or concept there is often still scope for negotiation, since a supplier in this situation benefits from gaining a first or new customer. You should consider:

- Providing 'proof' to future customers that the product works in practice, perhaps together with a testimonial from you as one of the first users. Sometimes you can negotiate a discount because there is still some risk attached to a product or service in this situation. See also the example from the Municipality of Diemen, which was able to stipulate a discount of 50% from the supplier.
- Giving feedback about the product. Your feedback can help make the product better still. In order for your feedback to be useful it's often necessary for you to do something concrete. For example, you can ask the users within your own organisation to complete a questionnaire or to organise a feedback session with users and the supplier. There are countless examples of questionnaires available [online](#) that you can use.

Presuming you negotiate a lower price, does this bring the contract price under the financial limit for a single private contract? If so, this makes it a bit easier to enter into a one-on-one contract.

Step 4: Purchase the product or service

Have you been through steps 1 to 3 and has the contract price been agreed? If so, you can then award the contract. If the price is below the European threshold, you can follow the normal award process. You can find further information about single private contracts [here](#).

If the price is above the European threshold, you should negotiate without contract notice. For further information consult PIANOo or the website for European tendering processes.

3. Legal framework

For further information about the legal aspects of awarding contracts that are under the financial threshold, see [PIANOo](#)

For further information about the legal aspects of a negotiating process without contract notice, see also [PIANOo](#)

4. Source

This information was taken from the “Innovation Procurement for Contracting Authorities” document that was prepared by [PIANOo](#) in 2017.